

SUBJECT: Revising election laws, modifying offenses and criminal penalties

COMMITTEE: Constitutional Rights and Remedies, Select — committee substitute recommended

VOTE: 9 ayes — Ashby, Clardy, Geren, Jetton, Klick, Landgraf, Lozano, Shaheen, White

5 nays — S. Thompson, Bucy, A. Johnson, Longoria, Moody

1 absent — Neave

SENATE VOTE: On final passage, August 12 — 18-11 (Alvarado, Blanco, Eckhardt, Gutierrez, Hinojosa, Johnson, Lucio, Powell, West, Whitmire, Zaffirini)

WITNESSES: For — Robert Jacoby, Dallas County Republican Party Election Integrity Committee; Wesley Bowen, DCRP Election Integrity Committee; Shawn Flanagan, Election Integrity Project of Nueces County; Paul Hodson, Grassroots Gold; Alan Vera, Harris County Republican Party Ballot Security Committee; Sheena Rodriguez, Latinos for America First and Texans Against Illegal Immigration; Anne Robinson, Paralyzed Veterans of America; Donald Garner, Texas Faith and Freedom Coalition; Robert L. Green, Travis County Republican Party Election Integrity Committee; Kathleen Ocker, We the People Liberty in Action; and 23 individuals; (*Registered, but did not testify:* Kathryn Rightmyer, Charles Simmons, Inda Simmons, Craig Weisman, and Wesley Whisenhunt, Grassroots Gold; Carrie Simmons, Opportunity Solutions Project; Chuck DeVore and Chad Ennis, Texas Public Policy Foundation; Jonathan Covey, Texas Values Action; and 15 individuals)

Against — Roy Sanchez, AFSCME HOPE Local 123; David Weinberg, Brennan Center for Justice; Chase Bearden, Coalition of Texans with Disabilities; Stephanie Gomez and Katya Ehresman, Common Cause Texas; Jeff Miller, Disability Rights Texas; Luis Figueroa, Every Texan; Cinde Weatherby, League of Women Voters of Texas; Rene Perez, Libertarian Party of Texas; Cyrus Reed and Craig Nazor, Lone Star

Chapter, Sierra Club; Adrian Shelley, Public Citizen; Bob Kafka, REV UP Texas and ADAPT of Texas; David Billings, Stand Up Republic Texas; Rene Lara, Texas AFL-CIO; James Slattery, Texas Civil Rights Project; Rose Clouston, Texas Democratic Party; Courtney Pugh, The Arc of Texas; and 14 individuals; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Lauren Guild, AFSCME San Antonio Local 2021, Harris County Local 1550, HOPE Local 123, Austin/Travis County Local 1624, and El Paso Local 59; Melissa Shannon, Bexar County Commissioners Court; Dionna Hardin, Black Voters Matter; Maggie Stern, Children's Defense Fund Texas; Brie Franco, City of Austin; Christine Wright, City of San Antonio; Charles Reed, Dallas County Commissioners Court; Lisa Flores, Easterseals Central Texas; John Espinosa, Greater Austin Hispanic Chamber of Commerce; Paul Sugg, Harris County Commissioners Court; Sam Derheimer, Hart InterCivic; Jeffrey Clemmons, Huston-Tillotson NAACP, Texas Rising, and Austin College Student Commission; Fatima Menendez, MALDEF; Alison Mohr Boleware, National Association of Social Workers Texas Chapter; Dena Donaldson, Texas American Federation of Teachers; Brandon Bradley, Texas College Democrats; Carisa Lopez, Texas Freedom Network; Beaman Floyd, Texas Impact; Nicholas Basha, Ric Galvan, and Isabel Herrera, Texas Rising; Thomas Kennedy, Texas State Building Trades; Laura Atlas Kravitz, Texas State Teachers Association; Alex Cogan, The Arc of Texas; Julie Wheeler, Travis County Commissioners Court; Stephanie Gharakhanian, Workers Defense Action Fund; and 28 individuals)

On — Jennifer Carey, Erath County and Tax Assessor Collectors Association of Texas; Michelle Mostert, Grassroots Gold; Russell Schaffner, Tarrant County; Keith Ingram, Texas Secretary of State; Laura Pressley, True Texas Elections LLC; Marcia Strickler, Wilco We The People; Cynthia Brehm; Lynn Foster; Cathy Jaster; James Keller; (*Registered, but did not testify*: Jonathan White, Office of the Attorney General; Thomas Parkinson)

DIGEST: CSSB 1 would establish the Election Integrity Protection Act of 2021. The bill would modify statutes on voter registration, the conduct and security

of elections, poll watchers and election officers, early voting by mail, the assistance of voters, election fraud and voter interference offenses, election-related court proceedings, and ineligible voters, among other provisions.

Legislative intent. CSSB 1 would establish the intent of the Legislature that the application of the Election Code and the conduct of elections be uniform and consistent throughout the state to reduce the likelihood of fraud in the conduct of elections, protect the secrecy of the ballot, promote voter access, and ensure that all legally cast ballots are counted.

The bill would require election officials and other public officials to strictly construe the provisions of the Election Code to effect this intent.

Voter registration. CSSB 1 would amend requirements related to voter registration applications, moving a voter's registration information to a new county of residence, and the provision of notice of unlawful registration.

Supplying information for registration application. Under CSSB 1, certain information required to be included as part of a voter registration application would have to be supplied by the person desiring to register to vote.

Registration in new county. The bill would remove a requirement that a voter continue to reside in the county in which the voter was registered in order to correct certain registration information digitally.

If the notice of change in registration information indicated that a voter no longer resided in the county in which the voter was registered, the registrar would have to forward the notice and the voter's original voter registration application to the registrar of the county in which the voter resided. The registrars would be required to coordinate to ensure that the voter's existing registration was canceled immediately after the voter was registered in the voter's county of residence.

A registrar who received a voter's notice and application from another registrar would have to treat it as an original application and register the voter if the voter resided in the county and was otherwise eligible.

Notice of unlawful registration. If the registrar determined that a person who was not eligible to vote had either registered to vote or had voted in an election, the registrar would have to execute and deliver to the attorney general, the secretary of state, and the county or district attorney having jurisdiction an affidavit stating the relevant facts.

Conduct and security of elections. CSSB 1 would amend provisions related to voting from a motor vehicle, early voting hours, and polling place location selection, among others.

Voting from vehicle. The bill would prohibit a voter from casting a vote from inside a motor vehicle unless the voter was physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health.

Early voting hours. In an election in which a county clerk was the early voting clerk, early voting by personal appearance at the main early voting polling place would have to be conducted on each weekday of the early voting period that was not a legal state holiday and for a period of at least nine hours, except that voting could not be conducted earlier than 6 a.m. or later than 10 p.m.

In an election to which the above did not apply, early voting by personal appearance at the main early voting polling place would have to be conducted for at least nine, rather than eight, hours each weekday of the early voting period. If the territory covered by the election had fewer than 1,000 registered voters, the voting would have to be conducted at least four, rather than three, hours each day.

The bill would reduce from 100,000 to 55,000 the population threshold for counties in which early voting in a primary or general election for state and county officers had to be conducted at the main early voting place for

at least 12 hours on each weekday of the last week of the early voting period. The bill also would prohibit such voting from being conducted earlier than 6 a.m. or later than 10 p.m. The bill also would remove certain provisions on early voting hours in elections ordered by a city.

During early voting, a voter who had not voted before the scheduled time for closing a polling place would be entitled to vote after that time if the voter was in line at the polling place by closing time. The secretary of state would be required to promulgate any materials and provide any training to presiding judges necessary to properly process such voters.

Straight party selection. CSSB 1 would prohibit voting system ballots from being arranged in a manner that allowed a political party's candidates to be selected in one motion or gesture.

Polling place. The bill would specify that in a countywide election in which the county clerk was the early voting clerk, an early voting polling place would have to be located inside, rather than at, each branch office. If a suitable room was unavailable inside the office, the polling place could be located in another room inside the same building as the branch office.

Temporary branch polling places. Temporary branch early voting polling places could not be located in a movable structure in the general election for state and county officers, general primary election, or runoff primary election.

Notwithstanding other provisions related to the location of temporary branch polling places, in an election in which countywide polling places were used, the commissioners court of a county would have to employ the same methodology it used to determine the location of countywide polling places to determine the location of temporary branch polling places.

Unopposed candidates. On receipt of a certification of a candidate's unopposed status, the governing body of a political subdivision would be required, rather than allowed, to declare each unopposed candidate elected to office. The certifying authority also would be required, rather than

allowed, to declare a candidate elected to a state or county office if, were the election held, only the votes cast for that candidate could be counted.

Closing polling place. The secretary of state would be required to adopt rules and create a checklist or similar guidelines to assist the presiding judge of a polling place in processing forms and conducting procedures required by the Election Code at the closing of polling place.

Election officers and observers. The bill would specify that the purpose of Election Code ch. 33 was to preserve the integrity of the ballot box in accordance with Tex. Const. Art. 4, sec. 4, by providing for the appointment of watchers, and it would establish as the intent of the Legislature that watchers accepted for service be allowed to observe and report on irregularities in the conduct of any election. A watcher appointed under ch. 33 would have to observe without obstructing the conduct of an election and call to the attention of an election officer any observed or suspected irregularity or violation of law in the conduct of the election.

Watcher acceptance and removal. It would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) for an election officer to intentionally or knowingly refuse to accept a watcher for service when acceptance of the watcher was required by statute.

Before accepting a watcher, the officer presented with a watcher's certificate of appointment would have to require the watcher to take an oath attesting that the watcher would not disrupt the voting process or harass voters in the discharge of the watcher's duties.

CSSB 1 would prohibit a presiding judge from having a watcher duly accepted for service removed from a polling place for a violation of the Election Code, the Penal Code, or any other provision of law relating to the conduct of elections unless the violation was observed by an election judge or clerk after the watcher was previously warned that the watcher's conduct violated the law. A presiding judge could call a law enforcement officer to request that a poll watcher be removed if the watcher committed

a breach of the peace or a violation of law.

Watcher rights. Under the bill, a watcher entitled to observe an election activity could sit or stand near enough to see and hear election officers conducting the observed activity, unless otherwise prohibited by law. A watcher could not be denied free movement where election activity was occurring within the location at which the watcher was serving, except that a watcher could not be present at a voting station when a voter was preparing a ballot or being assisted by a person of the voter's choice.

Observing data storage sealing and transfer. A watcher appointed to serve at a polling place in an election would be entitled to observe all election activities relating to the closing of the polling place, including the sealing and transfer of a storage device used by the voting system equipment. A watcher duly accepted for service would be entitled to follow the transfer of election materials from the polling place to the location designated for processing election materials. The authority responsible for administering such a location would be required to accept watchers in the same manner and number as watchers are accepted for service at a polling place.

Offense of obstructing watcher view. The current offense of unlawfully obstructing a watcher, a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), would be revised so that a person would have committed an offense if the person served in an official capacity at a location at which the presence of watchers was authorized and knowingly prevented a watcher from observing an activity or procedure the person knew the watcher was entitled to observe, including by taking any action to obstruct the view of a watcher or distance the watcher from the activity or procedure in a manner that made observation not reasonably effective.

Relief. The appointing authority for a watcher who believed that the watcher was unlawfully prevented or obstructed from performing the watcher's duties could seek injunctive relief, including issuance of temporary orders, a writ of mandamus, or any other remedy available

under law. The secretary of state also could seek such relief if the secretary believed that a state inspector was unlawfully prevented or obstructed from the performance of the inspector's duties.

Voting system logic and accuracy test. For logic and accuracy tests of voting systems conducted for an election in which a county election board had been established, the bill would require the general custodian of election records to notify each member of the board of the test at least 48 hours before the test date. If the board chose to witness the test, each member would have to sign the statement required under current statute.

In addition to other current statutory test requirements, a logic and accuracy test conducted under the bill also would have to require the general custodian of election records to demonstrate, using a representative sample of voting system equipment, that the source code of the equipment had not been altered.

Voting by mail. The bill would create requirements for the in-person delivery of early voting by mail ballots, revise requirements for applications to vote early by mail, expand criteria for acceptance of mail ballots, specify requirements for carrier envelopes, and provide a procedure for voters to correct defects in mail ballots, among other provisions.

In-person ballot delivery. CSSB 1 would require an in-person delivery of a marked mail ballot voted early to be received by an election official at the time of delivery. The receiving official would have to record the voter's name, signature, and type of identification provided on a roster prescribed by the secretary of state. The receiving official would have to attest on the roster that the delivery complied with the requirements for the return of marked early voting ballots.

Application to vote early by mail. Under CSSB 1, an application for an early voting ballot to be voted by mail would have to be submitted in writing and signed by the applicant using ink on paper.

The bill also would amend application requirements under current statute so that early voting ballot applications had to include:

- the number of the applicant's driver's license or personal identification card issued by the Department of Public Safety (DPS);
- if the applicant had not been issued a driver's license or personal identification number, the last four digits of the applicant's Social Security number; or
- a statement by the applicant that the applicant had not been issued an identification number or a Social Security number.

An early voting clerk would have to reject an application to vote early by mail if the required identification information did not match the information on the applicant's voter registration application.

A person could use the number of a driver's license or personal ID card that had expired for the purpose of fulfilling these application requirements if the license or identification was otherwise valid.

Criteria for ballot acceptance. The bill also would add a requirement to existing requirements for the acceptance of ballots voted by mail. Under CSSB 1, a mail ballot could be accepted only if the identifying information the voter was required to provide on the voter's application to vote early by mail matched the information on the voter's application for voter registration.

To determine whether the signatures on the ballot application or envelope were those of the voter, the early voting ballot board would have to request from DPS any signature of the voter's on file with the department and compare the voter's signatures on the ballot application and the carrier envelope certificate with any signature provided. The board also could compare the signatures with any known signature of the voter on file with the county clerk or voter registrar, rather than with two or more signatures of the voter made within the preceding six years as under current law.

Storage of returned ballots. CSSB 1 would specify that if the return of a marked early voting ballot was not timely, the early voting clerk would have to retain the return in a locked container for the period specified under current law.

Tabulation of ballots voted by mail. Ballots voted early by mail would have to be tabulated and stored separately from the ballots voted by personal appearance and be separately reported on the returns.

Carrier envelopes. The carrier envelope of a mail ballot would have to include a space hidden from view when the envelope was sealed for the voter to enter the required ID number or statement. No record associating an individual voter with a ballot could be created. A signature verification committee could compare the signatures on a carrier envelope certificate, except those signed for a voter by a witness, with any known signature of the voter on file with the county clerk or voter registrar, rather than two or more signatures of the voter made within the preceding six years as under current law.

Correcting defect in early voting ballot. CSSB 1 would require a signature verification committee or early voting ballot board, by the second business day after discovering certain defects in ballots voted early by mail and before deciding whether to accept or reject a timely delivered ballot, to:

- return the carrier envelope to the voter by mail, if the committee or board determined that it would be possible to correct the defect and return the envelope before the polls closed on election day; or
- notify the voter of the defect by telephone or email and inform the voter that the voter could request to have the application to vote by mail canceled or come to the early voting clerk's office in person by the sixth day after election day to correct the defect.

These provisions would apply to an early voting ballot voted by mail for which the voter did not sign the carrier envelope certificate, for which it could not immediately be determined whether the signature on the carrier

envelope certificate was that of the voter, that was missing any required statement of residence, or that contained incomplete information with respect to a witness.

If a committee or board notified a voter of a defect by telephone or email and informed the voter of the means of correcting the defect, the committee or board would have to take such action with respect to each ballot in the election to which these provisions applied. A poll watcher would be entitled to observe any action taken.

A ballot could not be finally rejected for failing to comply with certain requirements for the acceptance of mail ballots before the seventh day after election day.

Electronic records and notes. Electronic records of applications to vote by mail, envelopes, and ballots made by an early voting clerk would have to record both sides of the application, envelope, or ballot recorded. All such records would have to be provided to the early voting ballot board, the signature verification committee, or both.

Each member of an early voting ballot board and each member of a signature verification committee would be entitled to take and keep any notes reasonably necessary to perform the member's duties related to processing early voting results.

Voter assistance. Under CSSB 1, a voter would be eligible to receive assistance in reading, in addition to marking, a ballot if the voter could not read the ballot because of a physical disability that rendered the voter unable to write or see or an inability to read to the language in which the ballot was written.

Submission of form by assistant. The bill would require a person, other than an election officer, who assisted a voter in preparing a ballot to complete a form stating:

- the name and address of the person assisting the voter;

- the person's relationship to the voter; and
- whether the person received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee.

The secretary of state would have to prescribe the required assistance form. The form would have to be incorporated into the official carrier envelope if the voter was voting early by mail and received assistance. If the voter was voting at a polling place or curbside, the form would have to be submitted to an election officer at the time the voter cast a ballot.

Oath. CSSB 1 would require a person, other than an election officer, selected to provide assistance to a voter to take the required oath under penalty of perjury. The bill would amend the required oath by adding statements that the assistant would have to swear to or affirm, including:

- the voter being assisted represented themselves to the assistant as eligible to receive assistance because of a physical disability that rendered the voter unable to write or see or an inability to read the language in which the ballot was written;
- the assistant would confine the assistance to reading the ballot to the voter, directing the voter to read the ballot, marking the voter's ballot, or directing the voter to mark the ballot;
- the assistant did not pressure or coerce the voter into choosing the assistant;
- the assistant would not communicate information about how the voter voted to another person; and
- the assistant understood that if assistance was provided to a voter who was not eligible for assistance, the voter's ballot could not be counted.

Carrier envelope information. A person assisting a voter to prepare a ballot to be voted by mail would have to enter on the official carrier envelope of the voter the relationship of the person providing the assistance to the voter and whether the person received or accepted any form of compensation or other benefit from a candidate, campaign, or political committee in exchange for providing assistance, in addition to

other information required by current statute.

The bill would specify that the current state-jail felony offense (180 days to two years in a state jail and an optional fine of up to \$10,000) of knowingly failing to comply with the carrier envelope marking requirements would not apply if a person was related to the voter within the second degree by affinity or the third degree by consanguinity or if the voter was a person with a disability being assisted by a previously known attendant or caregiver.

Offense of voter assistance compensation. The bill would make it a state-jail felony to offer to compensate another person to assist voters or solicit or receive compensation for such assistance. The offense would not apply if the person assisting a voter was an attendant or caregiver previously known to the voter. The bill would remove references to performance-based compensation schemes and assistance-dependent compensation from the conduct constituting this offense.

Election fraud. The bill would create new offenses and revise existing offenses related to election fraud, vote harvesting, and unlawful solicitation and distribution of mail ballot applications and ballots, among other provisions.

False information on affidavit. Under CSSB 1, an election judge would commit an offense if the judge knowingly provided a voter with a form for an affidavit related to provisional voting if the form contained information that the judge entered on the form knowing it was false. The offense would be a state-jail felony.

Election-related work absences during early voting. The bill would apply to the early voting period the class C misdemeanor offense (maximum fine of \$500) of knowingly refusing to permit another person over whom a person had authority in the scope of employment to be absent from work on election day for the purpose of voting or of knowingly subjecting or threatening to subject the other person to a penalty for attending the polls. It would be an exception to the application of the offense if the conduct

occurred in connection with an election in which early voting was in progress for two consecutive hours outside of the voter's working hours.

Voter interference. Under CSSB 1, a person would commit an offense if the person knowingly or intentionally made any effort to:

- influence the independent exercise of the vote of another by altering the ballot of another or by otherwise causing a ballot to not reflect the intent of the voter;
- prevent a voter from casting a legal ballot in an election in which the voter was eligible to vote; or
- provide false information to a voter with the intent of preventing the voter from voting in an election in which the voter was eligible to vote.

An offense would be a class A misdemeanor, except that an offense would be a state-jail felony if the person committed the offense while acting in the person's official capacity as an election officer.

Vote harvesting. The bill would make it a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) for a person, directly or through a third party, to knowingly provide or offer to provide vote harvesting services in exchange for compensation or other benefit or to knowingly provide or offer to provide compensation to another person in exchange for vote harvesting services. It also would be an offense for a person to knowingly collect or possess a mail ballot or official carrier envelope in connection with vote harvesting services.

These provisions would not apply to an activity not performed in exchange for compensation or a benefit, interactions that did not occur in the presence of the ballot or during the voting process, interactions that were not conducted in-person with a voter, or activity that was not designed to deliver votes for or against a specific candidate or measure.

If a vote harvesting offense constituted an offense under any other law, the actor could be prosecuted under these provisions, the other law, or both.

Records necessary to investigate a vote harvesting offense or an offense under any other section of the Election Code would have to be provided by an election officer in an unredacted form to a law enforcement officer upon request. Such records would not be subject to public disclosure.

Unlawful solicitation and distribution of mail ballot application. Except as specified in the bill, CSSB 1 would make it an offense for a public official to, while acting in an official capacity, knowingly:

- solicit the submission of an application to vote by mail from a person who did not request an application;
- distribute an application to vote by mail to a person who did not request the application unless the distribution was expressly authorized under the Election Code;
- authorize or approve the expenditure of public funds to facilitate third-party distribution of an application to vote by mail to a person who did not request the application; or
- complete any portion of an application to vote by mail and distribute the application to an applicant.

The offense of unlawful solicitation and distribution of an application to vote by mail would be a state-jail felony.

Unlawful distribution of early voting ballots. It would be a class A misdemeanor for an early voting clerk or other election official to knowingly mail or otherwise provide an early voting ballot by mail or other early voting by mail ballot materials to a person who the clerk or official knew did not submit an application for a ballot to be voted by mail.

Election procedure-related perjury. It would be a state-jail felony for a person to make a false statement or swear to the truth of a false statement previously made while making the voter assistance oath required by statute.

Unlawful altering of election procedures. CSSB 1 would prohibit a public official from creating, altering, modifying, waiving, or suspending any election standard, practice, or procedure mandated by law or rule in a manner not expressly authorized by the Election Code.

Enforcement. The bill would require the prioritization of certain proceedings related to violations of the Election Code and specify requirements and deadlines for courts in handling these cases.

The Texas Supreme Court or a court of appeals would be required to prioritize over any other proceeding pending or filed in the court a proceeding for injunctive relief or for a writ of mandamus under Election Code ch. 273, which governs criminal investigations and other enforcement proceedings related to elections, pending or filed on or after the 70th day before a general or special election. If granted, oral argument for such a proceeding could be given in person or through electronic means.

A trial court also would be required to prioritize such election-related proceedings over other proceedings, except for a criminal case in which the death penalty was or could be assessed or when it would otherwise interfere with a constitutional right.

The bill would specify deadlines and similar requirements for expedited election proceedings in district courts, county courts, and statutory county courts. It would be an offense for a person, including a public official, to communicate with a county or district clerk with the intention of influencing or attempting to influence the court or judge assigned to a proceeding under the bill's provisions. The offense would be a class A misdemeanor, except that it would be a state-jail felony if it was shown on trial of the offense that the person committed the offense while acting in an official capacity as an election official.

The bill would specify that a court proceeding entitled to priority that was filed in a court of appeals would be docketed by the clerk of the court and assigned to a panel of three justices determined using an automated

assignment system. It would be a class A misdemeanor for a person, including a public official, to communicate with a court clerk with the intention of influencing or attempting to influence the composition of a three-justice panel assigned a specific proceeding under these provisions.

Ineligible voters. In the trial of a felony offense in which the defendant was adjudged guilty, the court would have to make an affirmative finding that the person had been found guilty of a felony and enter the finding in the judgment of the case and instruct the defendant on how the felony conviction would impact the defendant's right to vote in Texas.

It would be an offense for a person to knowingly vote or attempt to vote in an election in Texas after voting in another state in an election in which a federal office appeared on the ballot and the election day for both states was the same day. If conduct related to prohibited voting that constituted an offense under the bill also constituted an offense under another law, a person could be prosecuted under the bill's provisions, the other law, or both. The offense would be a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) unless the person was convicted of an attempt, in which case the offense would be a state-jail felony.

A person could not be convicted of the offense of illegally voting solely upon the fact that the person signed a provisional ballot affidavit unless corroborated by other evidence that the person knowingly committed the offense. This provision would apply to an offense committed before, on, or after the effective date of the bill, except that a final conviction for an offense that existed on that date would remain unaffected.

Repeals. The bill would repeal statutes related to temporary branch polling places located in movable structures in certain elections and jail confinement for the offense of unlawfully compensating a person for assisting voters.

Severability. If any provision of the bill or its application to any person or circumstance was held invalid, the invalidity would not affect other

provisions or applications of the bill that could be given effect without the invalid provision or application.

Applicability. Except as otherwise provided, the bill would apply only to an offense committed, an election ordered, an application to vote an early voting ballot by mail submitted, or an application for voter registration submitted on or after the bill's effective date.

The bill would take effect on the 91st day after the last day of the legislative session.

**SUPPORTERS
SAY:**

CSSB 1 would help to provide uniformity in Texas elections and restore the confidence of voters in election integrity. It would empower poll watchers to oversee election conduct without fear of being unfairly removed, add safeguards for the lawful assistance of a voter, and strengthen the consequences for violations of election law.

Voter registration. The bill would make it easier for voters who moved to a new county to maintain their voter registration by requiring voter registrars to coordinate to ensure that the voter's registration in the original county of residence was canceled and the voter was registered in the new county.

Conduct and security of elections. CSSB 1 would make it easier for Texans to vote lawfully by expanding early voting from at least eight hours to at least nine hours on weekdays and by making it an offense for employers to keep an employee from going to the polls during early voting, a prohibition which currently applies only to voting on election day. The bill also would entitle individuals in line when the polls closed during early voting to vote, which also currently applies only to individuals voting on election day.

The bill would protect the privacy and sanctity of each voter's ballot by prohibiting individuals not entitled under current law to vote from inside a vehicle from doing so. Allowing votes to be cast from vehicles carrying multiple individuals increases the opportunities for voter intimidation or

fraud.

Election officers and observers. CSSB 1 would empower poll watchers to perform their roles as observers by prohibiting election judges from removing them for arbitrary reasons or improperly refusing to accept them. If a poll watcher did disrupt a polling place or violate the law, that person could be removed by a law enforcement officer.

The bill also would provide greater confidence in the integrity of elections by allowing poll watchers to observe every step of the election process, except for the casting of ballots by voters, including the sealing and transfer of storage devices used by voting system equipment and the transfer of election materials to a different location for processing.

Poll watchers already are prohibited under current law from watching an individual cast a ballot or conversing with a voter. The bill would not allow watchers to engage with or harass voters, but rather would ensure that watchers could not be unjustly removed from a polling place while performing their duties or have their right to observe all election activities infringed.

Voting by mail. CSSB 1 would help ensure that a voter's eligibility was verified by requiring applications to vote early by mail to include an approved ID number, adding criteria for the acceptance of mail ballots, and expanding the ability of signature verification committees and early voting ballot boards to verify voter signatures on mail ballot applications and carrier envelopes.

The bill also would provide more opportunities for voters to have their votes counted by allowing defects in mail-in ballots, including missing signatures or other information, to be corrected by a voter within a specified time frame.

Voter assistance. CSSB 1 would provide greater protections from exploitation for individuals who may require assistance to vote. This includes individuals over 65 years old casting a ballot by mail and those

with disabilities, the visually impaired, and those who could not read the language in which a ballot was printed. By revising the required oath to include acknowledgement that assistance was not provided under coercion and requiring new information to be written on carrier envelopes, the bill would help deter attempts to take advantage of the voter needing assistance.

The bill would not deter individuals from lawfully assisting eligible individuals in casting a ballot. Rather, by requiring an assistant to attest under penalty of perjury that the assistant did not pressure or coerce a voter into choosing that person as an assistant, the bill would increase safeguards to protect such voters from exploitation by bad actors.

Election fraud and voter interference. CSSB 1 would help deter various forms of election fraud by creating new criminal penalties and enhancing existing ones, sending a strong message about Texas' commitment to election integrity. Election fraud is a serious offense that undermines a core civic duty and should be treated as such under the law. The bill would not punish individuals for making simple clerical errors or other mistakes because an action prohibited under the bill would have to be carried out knowingly or intentionally to qualify as an offense. CSSB 1 also would deter the exploitation of vulnerable voters by making it an offense to knowingly provide or offer to provide vote harvesting services for compensation. Ballot harvesting operations undermine the integrity of elections by introducing a financial incentive for the collection of votes, which opens the door to fraud.

Enforcement. By requiring courts to prioritize and expedite certain cases, the bill would provide for the quick disposition of time-sensitive election matters. The bill would not jeopardize other time-sensitive legal proceedings but simply ensure that election complaints within 70 days of an election were handled expeditiously. This would enable legitimate legal complaints about the election process to be addressed before election day and for injunctive relief to be provided.

CRITICS

CSSB 1 would exacerbate an already restrictive elections system by

SAY: creating overly harsh penalties, restricting convenient voting options that facilitate voter turnout, and creating an opportunity for partisan poll watchers to intimidate voters. Texas already has strong voting restrictions and relatively low voter turnout rates, and data have shown election fraud to be rare in Texas. Instead of further complicating voting and criminalizing election activities, the Legislature should make it easier for Texans to access the ballot box.

Voter registration. CSSB 1 could lead to needless prosecutions of individuals who accidentally registered to vote in the wrong county or made similar inadvertent mistakes by requiring voter registrars to provide notice of all unlawful registrations to the secretary of state and the attorney general.

Conduct and security of elections. The bill could reduce voter turnout by prohibiting convenient voting options, including drive-through voting and 24-hour early voting. The ability to vote curbside from a vehicle was valuable to many Texans during the COVID-19 pandemic, when voting in person created the unnecessary risk of viral transmission. Also, 24-hour early voting in Harris County during the 2020 election cycle allowed more people to vote and eased long lines resulting from increased voter turnout.

Election officers and observers. CSSB 1 could enable untrained partisan poll watchers to harass or intimidate voters by granting watchers overly expansive access to polling places and making it harder for election judges to remove unruly watchers. Although an election judge could eject a poll watcher under the bill, the bar for such a removal would be unnecessarily high. A judge or clerk would have to directly observe a watcher engaging in prohibited behavior, issue a warning, and then observe a second violation before ordering the watcher to leave the polling place. This could have the effect of creating a "free pass" for watchers to intimidate voters before being ejected.

While an election judge could call a law enforcement officer to remove a watcher violating the law or disrupting the peace, local police departments may not have a sufficient number of officers to respond to complaints

from multiple polling places. By the time an officer arrived, the conduct constituting a breach of the peace or violation of the law could have concluded.

Voting by mail. The bill would make it harder for individuals to vote early by mail by applying a voter ID requirement and creating more opportunities for a voter's signature, and therefore ballot, to be wrongly rejected as fraudulent. An application to vote early by mail also could be incorrectly rejected if the driver's license or Social Security number provided on the application did not match a number on file with the state's voter registration database. Many voters may have only one of these numbers on file with the database, and inadvertently supplying the incorrect number could result in an unwarranted rejection under the bill.

CSSB 1 also could limit the ability of voters with disabilities to sign mail ballot applications by requiring ink signatures. Voters with disabilities may make use of signature stamps to accommodate a physical disability. If the bill prohibited the use of such stamps, it could deter individuals with disabilities from successfully requesting a mail ballot.

Voter assistance. The bill would create more opportunities for valid ballots to be discarded by requiring individuals wishing to provide lawful assistance to voters with disabilities or elderly voters to fill out a form on the carrier envelope. The requirements for carrier envelopes under current law already are extensive, and further complicating these envelopes by adding a form would increase the likelihood of valid votes being discarded due to a simple error or omission by an assistant.

CSSB 1 also could create a chilling effect on individuals wishing to provide assistance to eligible voters by requiring the voter assistance oath to be taken under penalty of perjury. Under the bill, it would be a state jail felony to commit perjury in connection with the voter assistance oath. The oath's vague prohibitions on "pressuring" or "coercing" a voter to accept a person as an assistant could deter individuals from providing lawful assistance to eligible voters due to the fear of accidentally violating the Election Code.

Election fraud. Election fraud is rare in Texas and existing law is more than sufficient to deter individuals from fraudulently casting a ballot, changing votes, or otherwise illicitly influencing an election. By implementing overly punitive election offenses, CSSB 1 could discourage potential voters and poll workers from participating in the electoral process, further depressing Texas' already low voter turnout. Some offenses under the bill would be second- and third-degree felonies, placing election crimes on the same level as certain high-value property theft and other serious crimes.

The bill also would limit the information provided to voters by criminalizing routine get-out-the-vote activities such as the collection of ballots or the distribution of pre-filled voter registration applications.

Enforcement. CSSB 1 would require the prioritization of certain election cases over potentially more pressing judicial matters. The special treatment of election fraud cases under the bill, regardless of merit, could bog down the court system and jeopardize certain time-sensitive legal proceedings, such as cases involving protective orders.

NOTES:

A pre-filed amendment by Murr would add a curing process for mail ballots rejected due to missing or incorrect voter identification information, revise the provision on an election judge's authority to eject a watcher from a polling place by removing a requirement that the watcher be given a warning that the watcher's conduct violated the law before removal, enhance from a class B to a class A misdemeanor the offense created by the bill of intentionally or knowingly refusing to accept a qualified watcher for service, revise the voter assistance oath, and require a study from the secretary of state on implementing educational programs for voters with disabilities on the use of voting systems, among other provisions.